

## Internal Revenue Service

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Department of the Treasury  
Washington, DC 20224

Third Party Communication: None

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PLR-103923-25

Date:

August 04, 2025

## LEGEND

Taxpayer =

Pension Plan =

Pension Plan's 401(h) Account =

Medical Plan =

Date 1 =

Date 2 =

Date 3 =

Year 1 =

Dear :

This is in response to your letter dated February 6, 2025, submitted on your behalf by your authorized representative. The letter requests a ruling related to the expansion of eligibility for the payment of benefits provided for by a post-retirement medical account under section 401(h) of the Internal Revenue Code. The expansion involves the inclusion of certain employees who are eligible to commence in-service retirement benefits under section 401(a)(36).

### Facts

The following facts and representations have been submitted under penalties of perjury in support of the rulings requested:

The Taxpayer maintains Pension Plan, which was established on Date 1 and received its most recent favorable determination letter on Date 2. The Pension Plan has a retiree medical account described in section 401(h) (Pension Plan's 401(h) Account). The Taxpayer also maintains Medical Plan. The Pension Plan's 401(h) Account funds post-retirement medical benefits under the Medical Plan.

The Pension Plan's 401(h) Account is overfunded. The Taxpayer has not made a contribution to Pension Plan's 401(h) Account since Year 1.

The Taxpayer amended the Pension Plan, effective Date 3, to allow Pension Plan participants to elect to receive Pension Plan benefits on or after attainment of age 59½, but prior to their termination of employment (In-Service Eligible Participants). All benefit forms available under the Pension Plan are available to the In-Service Eligible Participants.

The Taxpayer is proposing to amend the Pension Plan (Proposed Amendment) to use the Pension Plan's 401(h) Account to fund medical benefits incurred on or after Date 3 under the Medical Plan for the In-Service Eligible Participants (including their spouses and dependents) who are eligible for benefits thereunder.

The Taxpayer represents that the Pension Plan's 401(h) Account was not funded by a section 420 transfer and the Taxpayer does not have a contractual obligation to fund medical benefits for any In-Service Eligible Participants who would be impacted by the Proposed Amendment.

### Ruling Requested

Taxpayer requests a ruling that the Proposed Amendment will not violate section 401(h) or § 1.401-14 or otherwise adversely affect the qualified status of the Pension Plan under section 401(a).

### Law

Section 401(a) describes the requirements for a qualified trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of the employer's employees or their beneficiaries.

Section 501(a) provides that an organization described in section 401(a) is generally exempt from federal income tax.

Section 401(a)(36) provides that a trust forming part of a pension plan shall not be treated as failing to constitute a qualified trust under section 401(a) solely because the plan provides that a distribution may be made from the trust to an employee who has attained age 59½ and who is not separated from employment at the time of the distribution.

Section 401(h) provides that, under regulations prescribed by the Secretary, and subject to the provisions of section 420, a pension or annuity plan may provide for the payment of benefits for sickness, accident, hospitalization, and medical expenses of retired employees, their spouses and their dependents, but only if—

- (1) such benefits are subordinate to the retirement benefits provided by the plan;
- (2) a separate account is established and maintained for such benefits;
- (3) the employer's contributions to such separate account are reasonable and ascertainable;
- (4) it is impossible, at any time prior to the satisfaction of all liabilities under the plan to provide such benefits, for any part of the corpus or income of such separate account to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of such benefits; and
- (5) notwithstanding the provisions of section 401(a)(2), upon the satisfaction of all liabilities under the plan to provide such benefits, any amount remaining in such separate account must, under the terms of the plan, be returned to the employer.

Section 1.401-14(a) provides that, under section 401(h), a qualified pension or annuity plan may make provision for the payment of sickness, accident, hospitalization, and medical expenses for retired employees, their spouses, and their dependents. The term "medical benefits described in section 401(h)" is used in § 1.401-14 to describe such payments.

Section 1.401-14(b)(1) provides that, under section 401(h), a qualified pension or annuity plan may provide for the payment of medical benefits described in section 401(h) only for retired employees, their spouses, or their dependents. To be "retired" for purposes of eligibility to receive medical benefits described in section 401(h), an employee must be eligible to receive retirement benefits provided under the pension plan, or else be retired by an employer providing such medical benefits by reason of permanent disability. For purposes of the preceding sentence, an employee is not considered to be eligible to receive retirement benefits provided under the plan if he is still employed by the employer and a separation from employment is a condition to receiving the retirement benefits.

Section 1.401-14(c) sets forth requirements which must be met for a qualified pension or annuity plan to provide medical benefits described in section 401(h):

- (1) The plan must specify the medical benefits described in section 401(h) which will be available and must contain provisions for determining the amount which will be paid. Such benefits, when added to any life insurance protection provided for

under the plan, must be subordinate to the retirement benefits provided by such plan.

- (2) A separate account must be maintained with respect to contributions to fund medical benefits described in section 401(h).
- (3) Amounts contributed to fund medical benefits, as described in section 401(h), must be reasonable and ascertainable.
- (4) It must be impossible, at any time prior to the satisfaction of all liabilities under the plan to provide for the payment of medical benefits described in section 401(h), for any part of the corpus or income of the medical benefits account to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of such benefits.
- (5) The plan must provide that any amounts which are contributed to fund medical benefits described in section 401(h) and which remain in the medical benefits account upon the satisfaction of all liabilities arising out of the operation of the medical benefits portion of the plan are to be returned to the employer.

### Analysis

The second sentence of § 1.401-14(b)(1) provides that an employee is eligible to receive medical benefits from a 401(h) account as a “retired employee” if the employee is eligible to receive retirement benefits under the pension plan. Here, the In-Service Eligible Participants will be eligible to receive retirement benefits under the terms of the Pension Plan. Thus, the In-Service Eligible Participants will satisfy the definition of a “retired employee” as described in the second sentence of § 1.401-14(b)(1).

The third sentence of § 1.401-14(b)(1) provides that an employee is not considered to be eligible to receive retirement benefits under the plan if he is still employed by the employer and a separation from employment is a condition to receiving the retirement benefits. Because In-Service Eligible Participants will be eligible to receive retirement benefits prior to separation from employment, separation from employment will not be a condition to the In-Service Eligible Participants receiving retirement benefits under the Pension Plan. Accordingly In-Service Eligible Participants will not be excluded from being considered eligible to receive retirement benefits under the third sentence of § 1.401-14(b)(1).

### Ruling

We conclude that the Proposed Amendment does not violate section 401(h) or § 1.401-14 or otherwise adversely affect the qualified status of the Pension Plan under section 401(a).

The ruling contained in this letter is based upon information and representations submitted by the Taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2025-1, 2025-1 IRB 1, section 7.01(16). This office has not verified any of the material submitted in support of the request for rulings. This material is subject to verification upon examination. The Associate Office will revoke or modify a letter ruling and apply revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2025-1, section 11.05.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter ruling. Specifically, no opinion is provided on any income tax consequences to the Taxpayer as a result of the use of the 401(h) account to provide health benefits to the employees who have not separated from employment. In addition, no opinion is expressed as to whether the Pension Plan satisfies any requirements of section 401(a) not expressly discussed.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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Jeremy Lamb  
Senior Counsel  
Qualified Plans Branch 2  
Office of Associate Chief Counsel  
(Employee Benefits, Exempt  
Organizations, and Employment Taxes)

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cc: